

REMARKS/ARGUMENTS

CLAIMS

The application now contains 49 claims. In response to the Examiner's rejection under 35 U.S.C. 103(a), claim 1 has been amended to include the subject matter of dependent claim 16. Claim 16 has been cancelled accordingly. New claims 49 and 50 have been added which are supported by the Examples of the application. Claim 9 has been amended in two instances to correct the same spelling error (polyethylene). Claims 25-44 remain withdrawn. Applicant respectfully submits that no new matter has been added by way of these amendments.

CONCERNING 35 USC § 103

Claims 1-24 and 45-48:

Claims 1-7 and 9-16 stand rejected pursuant to 35 USC § 103(a) as being allegedly unpatentable over United States Patent No. 5,613,982 (Goldstein) in view of United States Patent No. 5,067,962 (Campbell et al.). Claims 8, 17-24, and 45-48 are further rejected pursuant to 35 USC § 103(a) as being allegedly unpatentable over Goldstein as modified by Campbell et al. further in view of United States Patent No. 6,287,340 (Altman et al.).

The Applicant respectfully submits that the claims as presently amended are unobvious in view of the cited references, as follows.

Claim 1 has been amended to include the subject matter of former claim 16, i.e. to further recite "wherein said matrix layer is dehydrated or lyophilized prior to implantation" and has been further recited for clarity. Claim 1 further recites that "said matrix layer is in contact with said bone anchors", which is supported at for

example Figures 5 and 6 of the application. Claim 16 has been cancelled accordingly.

Applicants respectfully refer to MPEP 2142, where it is noted: “To establish a *prima facie* case of obviousness...the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added). Applicants respectfully submit that neither Goldstein nor Campbell mentions or suggests an implant comprising at least one support filament and at least one matrix layer, wherein said at least one matrix layer is dehydrated or lyophilized prior to implantation, as presently claimed.

With regard to former claim 16, the Examiner states, on page 3 of the Office Action, “with regards to lyophilized filament, see col. 4, line 61 – col. 5, line 11 of Goldstein”. Applicant respectfully disagrees with the Examiner’s reference to this passage of Goldstein in this respect. Dehydration or lyophilization is not taught nor suggested in this passage. Rather, this passage mentions “physical forces, for example the formation of intracellular ice ... to decellularize transplant tissues”, mentioning that such intracellular ice may be formed by “freezing”. In contrast, dehydration and lyophilization, both involve dehydration, i.e. loss of water. Indeed, “lyophilization” is clearly defined on page 6, paragraph [0025] of the instant application. Although lyophilization is sometimes referred to as “freeze-drying”, it is distinct from and should not be confused with “freezing”, as the latter does not suggest nor entail a loss of water. In short, processes such as “freezing” or “freeze-thaw” recited in the passage of Goldstein noted by the Examiner do not entail a loss of water, and as such are different from the processes corresponding to the terms “dehydration” and “lyophilization” in claim 49.

In view of the foregoing, the Applicant respectfully submits that claim 1 as amended, and claims 2-15, 17-24, and 45-48 which ultimately depend therefrom, are

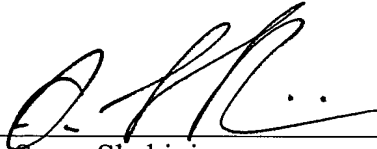
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inventive over Goldstein in view of Campbell and respectfully requests that the rejection be withdrawn.

It is believed this responds to all of the Examiner's concerns, however if the Examiner has any further questions, he is invited to contact S. Serge Shahinian (Reg. No. 52,533) at 514-954-1500. Further, If the Examiner does not consider that the application is in a form for allowance, an interview with the Examiner is respectfully requested.

Respectfully submitted,

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